

**LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

301 State House
(317) 232-9855

FISCAL IMPACT STATEMENT

LS 7529

BILL NUMBER: SB 498

DATE PREPARED: Jan 16, 1999

BILL AMENDED:

SUBJECT: Representation by Attorney General.

FISCAL ANALYST: Susan Preble

PHONE NUMBER: 232-9867

FUNDS AFFECTED: X **GENERAL**
DEDICATED
FEDERAL

IMPACT: State

Summary of Legislation: This bill requires the Attorney General to represent: (1) a regional or local planning or coordinating council required by a law or a federal program administered by the Division of Family and Children; and (2) any member, officer, employee, or volunteer of the council that is accused of an offense or sued for civil damages because of an act performed within the council's or individual's course of responsibilities or under the authority or order of a superior officer or the division. It also makes related changes.

Effective Date: July 1, 1999.

Explanation of State Expenditures: This bill requires the Attorney General to represent a regional or local planning or coordinating council administered by the Family Social Services Administration's Division of Family and Children in any civil action resulting from conduct associated with council-related activities. Currently, there are 92 local planning councils, and 16 regional planning councils in existence. The number of individuals members varies by council.

In addition to its current caseload, this bill requires the Attorney General's Government Litigation Section to represent this new class of potential defendants, should they be sued for civil damages because of an act performed within a council's or individual's course of responsibilities or under the authority or order of a superior officer or the Division of Family and Children.

The funds and resources required above could be supplied through a variety of sources, including the following: (1) Existing staff and resources not currently being used to capacity; (2) Existing staff and resources currently being used in another program; (3) Authorized, but vacant, staff positions, including those positions that would need to be reclassified; (4) Funds that, otherwise, would be reverted; or (5) New appropriations. The Office of the Attorney General is authorized 263 full-time positions. Of that total, as of December 31, 1998, there are 22 full-time positions vacant. The breakdown of the 22 vacancies by position

type is as follows: 3 departmental counsels, 1 trial deputy, 5 field investigators, 1 field auditor, 1 administrative assistant, 2 office managers, 5 secretaries, 3 account clerks, and 1 clerical assistant. Ultimately, the source of funds and resources required to satisfy the requirements of this bill will depend upon legislative and administrative actions.

The Office of the Attorney General reports the amount of damages paid as a result of tort claims submitted and tort claim lawsuits filed against the State and by plaintiffs in tort and civil rights litigation between CY 1992 and CY 1997 as follows:

<u>CY</u>	<u>Damages Paid</u>
1997	\$3,438,230
1996	\$5,742,977
1995	\$6,362,071
1994	\$8,060,838
1993	\$4,048,126
1992	\$3,456,495

The amount paid includes tort claims paid at the time of claim submission, settlements upon the filing of lawsuits, and as a result of a court order. It also includes cases in both federal and state court.

The state would incur additional expenditures if private counsel must be retained to defend a member, officer, employee, or volunteer of a council that is accused of a criminal offense as a result of an act performed within the individual's course of responsibilities or under the authority or order of a superior officer or the Division of Family and Children. The cost would depend on the attorney's hourly rate and the time required to represent the member.

Explanation of State Revenues:

Explanation of Local Expenditures: See State Expenditures.

Explanation of Local Revenues:

State Agencies Affected: Office of the Attorney General; Family and Social Services Administration

Local Agencies Affected: Counties, cities and towns; local and regional planning and coordinating councils.

Information Sources: Barbara Crawford (317) 232-6217 and J.D. Lux, (317) 233-8438; Office of the Attorney General; Lauren Polite, Family and Social Services Administration, (317) 232-1149.